

Remarks

Claims. Claims 1-28 are now pending in this application. Claims 1-4, 17-19, and 24 are canceled, and claims 5-13 are withdrawn. Claims 14, 20, and 26-28 have been amended. Upon entry of the amendments, claims 14-16, 20-23, and 25-28 will be pending.

Amendments. Claims 14 and 20 are amended to include preventing severe acute respiratory syndrome ("SARS"), in an individual in need thereof. Support for claims to preventing SARS is found at page 11, paragraphs 0042 and 0045 of the application. The expression "in need thereof" has been introduced for greater clarity. Claims 26-28 are amended to remove dependency from canceled and withdrawn claims. The amendments do not introduce new matter, and no claim fees are due as a result of the amendments.

Fees. The present amendments were originally filed on November 9, 2006, along with an election in response to a restriction requirement. Because the withdrawn claims were not present in the list of claims, a *Notice of Non-Compliant Amendment* was mailed on January 29, 2007, setting a one-month deadline for filing a corrected amendment.

Because the election of an invention results in the withdrawal by the Examiner of those claims directed to non-elected inventions, the cancellation or amendment of claims is not required when making an election. Thus, although a due date had been set for responding to the restriction requirement, and the statutory 6-month deadline applied, *Applicant had no duty to file the amendment by either of those dates*. The November 9, 2006 amendment was voluntary, and could have been filed at any time, independently of the response to the restriction requirement.

Applicant respectfully submits that, if there is no duty to file an amendment in the first place, there can be no duty to respond to a notice that the amendment is non-compliant. Failure to respond to a *Notice of Non-Compliant Amendment* within the one-month period, in these circumstances, should merely result in non-entry of the amendment, as would be the case with a non-compliant preliminary or supplemental amendment. Accordingly, Applicant believes that no fees are due with the present amendment, as there is no due date requiring an extension of time.

Should it be determined that a response to the *Notice of Non-Compliant Amendment* is nonetheless mandatory, the fee for a three-month extension of time (37 CFR 1.17(a)(3), \$1020.00) would be due. On page 1 of this paper, authorization is given to charge any such fees to the undersigned attorney's deposit account.

Respectfully submitted,

Thelen Reid Brown Raysman & Steiner, LLP

Dated: May 21, 2006

by: James P. Demers

James P. Demers  
Reg. No. 34,320

Brown Raysman Millstein Felder & Steiner LLP  
900 Third Avenue  
New York, New York 10022-4728  
Telephone: (212) 895-2020  
Telefax: (212) 895-2900